



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MARY F. McTIGUE
DIRECTOR

December 11, 1991
AO-91-27

Ms. Helen H. Gallagher, Treasurer
Committee to Elect Maura Hennigan Casey
P. O. Box 31
West Roxbury, MA 02132

Re: Committee Refund Policy

Dear Ms. Gallagher:

I am writing in response to your October 15, 1991, letter regarding a refund policy for the Committee to Elect Maura Hennigan Casey ("Committee"). In response to your letter, I am issuing this advisory opinion.

You have stated that the Committee has adopted a refund policy which provides that the Committee will "refund any and all campaign contributions to any contributor upon his or her request of same." For the reasons set forth below, it is the opinion of this Office that such a policy is in violation of M.G.L. c.55, the campaign finance laws.

M.G.L. c.55, s.6 provides, in part, that a duly organized committee such as yours may:

receive, pay and expend money or other things of value for the enhancement of the political future of the candidate . . . so long as such expenditure is not primarily for the candidate's or any other person's personal use, provided, however, that the director shall establish reasonable rules and regulations concerning such expenditures . . . 1

1. The Office's analysis is also consistent with the provisions of M.G.L. c.55, s.7 which requires that all expenditures be made only as authorized by c.55. Expenditures are comprehensively governed by c.55 and duly adopted regulations. As noted herein, refunds of contributions are authorized only under certain circumstances. See also M.G.L. c.55, s.18, paragraph 18 (Disposition of Residual Funds).

In accordance with this section, the director has issued regulations which govern the refund policies of political committees. Specifically, 970 CMR 1.04 (9) sets forth specific circumstances regarding the refund of all political contributions and provides, in pertinent part, that refunds may be made if:

(b) The political committee or candidate has established, or establishes a refund policy regarding contributions from a particular category or type of contributor. This policy, and the refund of such contributions, must be stated and applied in an open and consistent manner. This division shall not be construed to permit the refund of contributions due solely to the termination of a particular candidacy (emphasis supplied).

This Office has frequently advised candidates and political committees that the emphasized phrase refers to categories of contributors which can be objectively defined prior to the receipt of an actual contribution. For example, a candidate or political committee may adopt a policy of not receiving contributions from multi-candidate committees (so-called PACs) or from municipal and state employees or from employees who work for or report to the candidate.

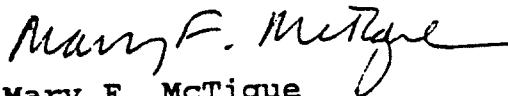
The phrase "particular category or type of contributor" does not include contributors who simply change their mind and want their money back. While undoubtedly well intentioned by your Committee, approving such a policy would undercut important disclosure goals of the campaign finance law. For example, such a policy would make it possible for loans to be disguised as contributions or for some contributors to appear to have made greater contributions than actually intended.

Therefore, it is the opinion of this Office that a refund policy which provides that contributions or parts thereof will be returned to any contributor upon the contributors request is in violation of the campaign finance laws and the regulations promulgated pursuant thereto.

This opinion has been based solely on the representations in your letter and rendered solely in the context of M.G.L. c.55.

Please do not hesitate to contact this Office if you have any additional questions.

Very truly yours,


Mary F. McTigue
Director